

ORDINANCE NUMBER 412
ADOPTING REQUIREMENTS FOR TRANSIENT VENDORS/PEDDLERS
IN THE TOWN OF MOUNT OLIVE, MISSISSIPPI

WHEREAS, came on for consideration at this regular meeting of the Mayor and Board of Aldermen of the Town of Mount Olive, Mississippi, the matter of adopting Ordinance 412 An Ordinance of the Board of Aldermen of the Town of Mount Olive, Mississippi, An Ordinance Adopting the requirements for Transient Vendors/Peddlers in the Town of Mount Olive, Mississippi;

RESOLVED, that the Mayor and Board of Aldermen of the Town of Mount Olive, Mississippi, Mississippi, adopt the following Ordinance, to-wit:

A. PURPOSE:

The Mayor and the Board of Aldermen of the Town of Mount Olive state that a healthy environment for business and commerce is in the best interest of the Town of Mount Olive hereby find that the regulation of Transient Vendors who seek the right to operate within the City Limits of Mount Olive is necessary for the promotion of that healthy business environment. Said regulation will provide transient vendors with defined requirements for licensing and operation of transient vendor operations. Further, regulation of transient vendors as to time and place for their operation will provide a clear standard of conduct to regulate the licensing and operation of transient vendors.

The operation of transient vendors, as defined in this ordinance, requires that the Mayor and Board of Aldermen promulgate, by Ordinance, specific requirements and conditions for the regulation and operation of said transient vendors within Mount Olive in order to guarantee the health and safety of the citizens of Mount Olive.

The purpose of this Ordinance is therefore to set out necessary and proper regulations for those merchants who choose to operate within the Town of Mount Olive as transient vendors in order to guarantee the health and safety of the citizens of Mount Olive. As well as the vendors themselves.

B. APPLICATION OF THIS ORDINANCE:

1. Section 75-85-3, Mississippi Code of 1972, as amended exempts certain vendors from regulation as transient vendors to wit:

However, the Town of Mount Olive, pursuant to Section 27-17-1, 21-19-35 Mississippi Code of 1972 as amended will enforce these specific regulations enacted to protect the health and safety of the Citizens of Mount Olive.

C. DEFINITIONS:

As used in this chapter, the following terms shall have the following meanings ascribed to them, unless the context clearly indicates otherwise:

- (a) "Transient vendor" means any person who transacts transient business in this state either in one locality or by traveling from place to place in this state. The term includes a vendor who for the purposes of carrying on such business hires, leases, uses or occupies any building, structure, motor vehicle, railroad car or real property.
- (b) "Transient business" means any business conducted for the sale of merchandise or services that is carried on at a particular location for a period of less than six (6) months in each year, even though the owner of such business may conduct the business at another location for more than six (6) months in each year.
- (c) "Person" means an individual, corporation, association, partnership or other entity.

D. APPLICATION OF ORDINANCE:

- (1) The provisions of this chapter shall not apply to:

- (a) Civic and nonprofit organizations or wholesale sales to retail merchants by commercial travelers;
 - (b) Wholesale trade shows or conventions;
 - (c) Sales of goods, wares, services or merchandise by samples, catalogue or brochure for future delivery;
 - (d) Fairs and convention center activities conducted primarily for amusement for entertainment;
 - (e) Any general sale, fair, circus, auction or bazaar sponsored by a church or religious organization;
 - (f) Garage sales held on premises devoted to residential use;
 - (g) Sales or repairs of crafts or sales or repairs of items made by hand by the person making the crafts or items;
 - (h) Duly licensed flea markets operating from a fixed location;
 - (i) Sales of agricultural, dairy, poultry, seafood or forest management products or services related to forest management or silvicultural activities, nursery products, foliage plants or ornamental trees, except such products or services sold at retail and not grown or produced within the state.
- (2) Any transient vendor or transient business otherwise exempt from the provisions of this article shall submit a registration application to the city clerk prior to transacting any business within the city. There shall be no fee for the registration application.
- (3) A transient vendor not otherwise exempted from this chapter is not exempted from this chapter because of a temporary association with a local dealer, auctioneer, trader, contractor or merchant, or by conducting the transient business in connection with or in the name of any local dealer, auctioneer, trader, contractor or merchant.

E. LICENSE:

1. A transient vendor who desires to transact business in Mount Olive shall apply for and obtain a license to transact business. A license issued by a municipality authorizes a transient vendor to transact business within the municipality. The license application shall also be filed with the city tax collector and must include:
 - (a) The name and permanent address of the transient vendor making the application;
 - (b) A statement describing the kind of business to be conducted, the length of time for which the applicant desires to transact the business, and the proposed location of the business;
 - (c) The name and permanent address of the applicant's registered agent of office; and
 - (d) Proof that the applicant has acquired all other required city, county and state permits and licenses. Such proof shall include a Mississippi sales tax number and, if the transient vendor desires to transact business in a municipality, such number shall include such municipality's sales tax diversion code.

2. Any Transient Vendor or Transient Business otherwise exempt from the provision of their article shall submit a registration application to the City Clerk prior to transacting any business within the city. There shall be No Fee for the registration application.
3. If the applicant is an association or corporation, the applicant must also include the names and addresses of the members of the association or the officers of the corporation. If the applicant is a corporation, the application must state the date of incorporation and the state in which it was incorporated. If the applicant is a corporation organized under the laws of another state, the applicant must state the date on which the corporation qualified to transient business as a foreign corporation in this state.
4. Transient Vendors will be allowed to establish their business in commercial zones pursuant to the regulation as set out in this ordinance. Transient Vendors will not be allowed to operate within the Central Business District of the Town of Mount Olive. (Exhibit A) The Mayor and Board of Aldermen may allow, with specific permitting and regulation, major civic events to be conducted inside the Central Business District, provided the Civic Club, Chamber of Commerce or group specifically seek and secure approval of the Mayor and Board of Aldermen.
5. Registered Agent:
 - (a) Each applicant for a transient vendor license shall designate a registered agent on the license application. The registered agent must be a resident of the municipality for which the license is sought and shall be the agent on whom any process, notice or demand required or permitted by law to be served on the licensee may be served. The registered agent agrees in writing to act as the agent. The license applicant shall file a copy of the agreement with the license application.
 - (b) The city tax collector shall maintain an alphabetical list of all transient vendors in the municipality, as the case may be, and the names and addresses of their registered agents.
 - (c) If a transient vendor who does business in Mount Olive fails to have or to maintain a registered agent in that municipality or if the designated registered agent cannot be found at the stated permanent address, the city tax collector is the agent of the transient vendor for service of process, notices, or demands. Service on the tax collector is made by delivering to his office duplicate copies of the process, he shall immediately forward one (1) copy by registered or certified mail to the permanent address of the transient vendor.
 - (d) This section does not limit or otherwise affect the right of any person to serve a process, notice or demand in any other manner authorized by law.

F. REGULATION FOR TRANSIENT VENDOR OPERATION:

1. Zoning: Transient Vendors are allowed in commercial zones. The zoning district must be compatible with the type of business.
2. Setbacks: The Transient Vendor Business shall meet the setback requirements for the zoning district in which it is to be located.
3. Signs: NO free-standing sign shall be allowed
4. Toilet Facilities: If the applicant intends to use the facilities of another building on the premises, written consent from the building owner must accompany the application.

5. Transient vendors must have their own source of electricity, either by generator or a similar device, and transient vendor may not use extension cords to connect to other external or adjacent sources for their electricity.
6. Other Regulatory Agencies: The business must comply with Health Department and all other, state, and federal regulations. Must obtain permits and licenses as required by law.
7. Liability Insurance: Verification that the property owner's liability insurance will cover any incident resulting from the location of, or operation of the Transient Vendor operation must be submitted in writing with the application.
8. Lease Agreement: A written lease agreement with the property owner must be submitted with the application. The lease must specify the expiration date of the agreement.
9. Transient vendors may conduct sales of any of their products or services during the hours of 8:00 a. m. to 5:00 p. m., Monday through Saturday. Transient vendors are not allowed to make any sales of any products or services on Sundays, not during any hours not set forth herein.
10. Transient vendors are prohibited from selling their products or services on any public right-of-way of the city, state, or county.
11. Transient vendors are prohibited from selling their products or services on any property without having first obtained written permission from the owner or legal occupant of the premises upon which sales of products or services may be offered.
12. Transient vendors shall not conduct sales of any of their products or services from property located adjacent to any state or federal highway traversing the city.
13. Requirements for transient automobile dealers: Transient automobile dealers which operate within the city limits of the Town of Mount Olive are governed by and limited to the following:
 - (1) Any tent placed on subject property shall be limited to 400 square feet;
 - (2) The total number of automobiles permitted on any such lot shall be limited to 20, and
 - (3) There shall not be on the premises any camper, RV, or any other type of apparatus which contains sleeping quarters.
 - (4) All sales personnel engaged in showing the automobile, negotiating sales or executing documents must be licensed according to the Mississippi Motor Vehicle Registration and subject to being bonded.
14. Certification for food sales:

Transient vendors/businesses that prepare or process food in anyway shall furnish the city with a certificate from the health department showing that all applicable requirements have been met.

Licensing:
15. Separation of premises:

Transient businesses shall be located on a separate parcel of an existing business, except when acting in a temporary nature for a special event.

Fee's:
16. Applicants for a transient vendor's license shall pay a fee to the Town with their application, in the sum of **\$250.00**. The fee shall be deposited into the general

fund. A transient vendor may renew their license one time if requested before their license expires at \$25.00.

Prior Convictions:

17. Transient vendors/peddlers or transient business, or their duly authorized representatives, who have been previously convicted of a felony are hereby prohibited from obtaining a license due to the threat of public safety and welfare.

Bond:

18. Transient vendors shall execute and post a cash bond or surety bond in favor of the City, issued by a corporate surety authorized to do business in the State of Mississippi, in the sum of \$2,000 or 5% of the wholesale value of any merchandise or service to be offered for sale by the applicant, as authorized by Section 75-85-13 of the Mississippi Code of 1972, as amended, such bond to be conditioned as set forth therein.
19. The transient vendor or transient business shall maintain the bond during the period that the vendor conducts business in Mount Olive for a period of one (1) year after the termination of the business. After the transient vendor furnishes satisfactory proof to the county tax collector or municipal tax collector, as the case may be, that the vendor has satisfied all claims of purchasers of merchandise from or services offered by the vendor and that all sales taxes and other applicable taxes have been paid, the bond shall be released.
20. Sales on rights-of-way prohibited:
Transient vendors/businesses are prohibited from selling their products or services on any public right-of-way of the city, state or county.
21. Prior to offering any merchandise or services for sale, transient vendors must report to the City Clerk of the Town of Mount Olive and obtain written approval in order to ensure that the terms and provisions of the Mississippi Code and Town of Mount Olive Code of Ordinances regulating transient vendors and this ordinance have been met.
22. Report by hotel keeper:
The owner, proprietor or manager of any hotel, motel, rooming house, or other place of public accommodation shall report, within six (6) hours after renting, to the tax collector the name of any person who has rented a room or other space for the sale and display of merchandise of a transient merchant, giving the location:
23. Penalty for Violation:
Any person who knowingly or intentionally operates a transient business without a valid license as set forth in this article, or who knowingly or intentionally advertises, offers for sale or sells any merchandise or services in violation of this ordinance shall, upon conviction, be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000 and/or be imprisoned in the county jail for not more than 30 days. Such person may be proceeded against by suit, and the city clerk may seize and sell any property of the person liable for the tax and penalty in the same manner as property of taxpayer's delinquent for the payment of ad valorem taxes due on personal property may be distrained and sold.

This Ordinance shall take effect and be in force as provided by law.

The City Clerk shall cause the ordinance to be published in a local newspaper with a general circulation.

The above Ordinance was reduced to writing, read and considered paragraph by paragraph, and section by section and then as a whole at this regular meeting of the Mayor and Board of Aldermen on May 3, 2022, whereupon, **Alderman Marcia Hull** made a motion which was seconded by **Alderman Willie P. McCullum** to adopt the Ordinance, was submitted for a vote of all Aldermen present and voting and the following vote was recorded, to-wit:

VOTING AYE: Alderman John Larry Sullivan
Alderman Willie P. McCullum
Alderman Mary P. Norman
Alderman Marcia Hull

VOTING NAY: None

NOT PRESENT: Alderman Terry Barron

WHEREUPON, the motion was duly carried by majority vote and declared duly adopted and enacted on this the 3rd day of May, 2022.

James C. Kelly, III
MAYOR

ATTEST:

Breyon Magee
CITY CLERK